

United States District Court
for the
Western District of New York

DeVonté Rashad Lee Moorer,
DIN# 11B2591
Plaintiff

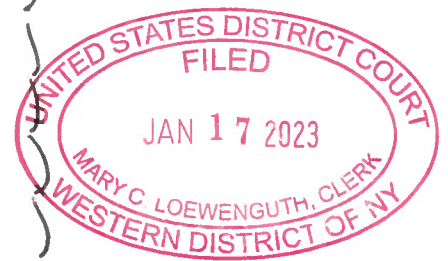
Case no.
23CV 6040-
FPG

V.

Names

Rank/Title

1. Terrance McCann - Sergeant
2. Stephen Kokotajlo - Sergeant
3. Donald Lockwood - Captain
4. Robert O'Leary - Lieutenant
5. Russell Fox - Lieutenant
6. Kevin S. Brown - Dep. Sup. of security
7. Christopher Yehl - Superintendent
8. Anthony Annucci - Acting Commissioner
9. State of New York - State
10. Department of Corrections
And Community Supervision - Political agency/
Subdivision



Complaint for Violation
of Civil Rights
(Prisoner ^{New York} Complaint)

Address where Defendants
Can be found

1. Terrance McCann
2. Stephen Koko Tajlo
3. Russell Fox
4. Robert O'Leary
5. Donald Lockwood
6. Kevin S. Brown (may have Retired)
7. Christopher Yehl

Address of
Attorney for all
Defendants
• Office of the Attorney
General
P.O. Box 7431
State Capitol
Albany, New York 12224

Defendants #1-7 have the same address

- Wende Correctional Facility
P.O. Box 1187
Alden, New York 14004-1187

8. Anthony Annucci

Defendant #8 has the address of;

- State of New York
Department of Corrections
and Community Supervision
The Harriman State Campus - Bldg. #4
1220 Washington Avenue
Albany, New York 12226-2050

Exhaustion of Administrative Remedies

A. Did your claim(s) arise while you were confined in a jail, prison, or other Correctional facility?

☒ Yes ☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s):

• Wendle Correctional Facility

B. Does the jail, prison, or other Correctional facility where your ~~claim~~ claim(s) arose have grievance Procedure?

☒ Yes ☐ No ☐ Do not know

C. Does the grievance procedure at the jail, prison, or other Correctional facility where your claim(s) arose cover some or all of your claims?

☒ Yes ☐ No ☐ Do not know

If yes, which claim(s)?

My claim in respects to racial discrimination, Retaliation, harassment, and due process, and cruel and unusual punishment and Equal protection of rights. My claim that my Constitutional rights were violated and that the "Crown Act" was violated.

D. Did you file a grievance in the jail, prison, or other Correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes ☐ No

E. If you did file a grievance:

1. Where did you file the grievance?

• Wende Correctional Facility

2. What did you claim in your grievance?

- Racial Discrimination, Slurs
- Harassment
- Retaliation
- Crown Act violation
- Cruel and unusual punishment
- Unreasonable Search
- Threats

3. What was the result, if any?

- All ~~the~~ four grievances were subsequently denied and I appealed those denials and were again subsequently denied.

4. What steps, if and, did you take to appeal that decision? IS the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

- All four grievances were appealed to the highest level (C.O.R.C.) and the C.O.R.C. has denied all appeals to said grievances. There are no further appeals to take, I have exhausted all of my remedies.

5. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

- During the process of exhausting my administrative remedies I wrote a letter to the Attorney General

Leticia James, explaining in detail my claim and sent said letter to the Attorney General Leticia James via Certified mail return receipt.

To the best of your knowledge, have you had a case dismissed based on this "three Strikes rule"?

☐ Yes ☒ No

Have you filed other lawsuits in State or Federal Court dealing with the same facts involved in this action?

☐ Yes ☒ No

I agree to provide the clerk's office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the clerk's office may result in the dismissal of my case.

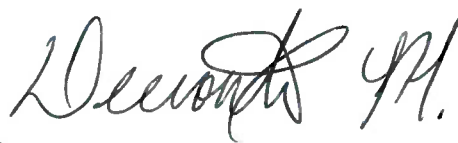
Date of Signing: 1-11-23

Signature of Plaintiff

Printed name of Plaintiff

Prison Identification NO.

Prison address (current)



DeVonte Rashad Lee Moorer

11B2591

Upstate Correctional Facility
P.O. Box 2000 Bare Hill Road
Malone, New York 12953

Please Take Notice;

Department of Corrections and Community Supervision,

Defendants: Terrance McCann, Stephen Kokotajlo, Donald Lockwood, Robert O'Leary, Russell Fox, Kevin S. Brown, Christopher Yehl and Anthony Annucci, are being Sued in their individual Capacities in respects to punitive, Compensatory, and exemplary damages.

Defendants: Terrance McCann, Stephen Kokotajlo, Donald Lockwood, Robert O'Leary, Russell Fox, Kevin S. Brown, Christopher Yehl, Anthony Annucci, State of New York, Department of Corrections and Community Supervision, are being Sued in their Official Capacities in respects to Declaratory and/or Injunctive relief.

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Plaintiff DeVonte Rashad Lee Mooker
follows:

Nature of the Case

1) This is a civil rights action arising from defendant's racial and national origin discrimination against plaintiff, retaliation against plaintiff, violation of plaintiff's due process rights, cruel and unusual punishment inflicted on plaintiff and perjury against plaintiff, ~~on~~ harassment, or, or about November 9th, 2021, November 30th, 2021, December 22nd, 2021, January 19th, 2022, January 26th, 2022, January 5th, 2022, February 23rd, 2022, April 20th, 2022, February 17th, 2022, in Alden, Buffalo, in New York State.

Jurisdiction and Venue

2) This action is brought pursuant to 42 U.S.C.A. §§ 1983 and 1986 and the First, Fifth, Eighth, ^{Fourteenth} amendments to the United States Constitution. Jurisdiction is founded on 28 U.S.C.A. §§ 1331 and 1343 (a) (3) and (4) and the above-mentioned Statutory and Constitutional provisions. The amount in controversy in this case, excluding interest and costs, exceeds the minimum jurisdictional limit on this court. (~~That is~~ Fourteenth)

3) Plaintiff further invokes the supplemental jurisdiction of this court pursuant to 28 U.S.C.A. § 1367 to hear and decide claims arising under state law.

4. A substantial part of the events and/or omissions complained of here occurred in Erie County New York, and this action is properly assigned to the Civil division of the United States District Court for the Western District of New York State.

5. Plaintiff demands a Jury Trial.

6. Plaintiff is an incarcerated individual in State Prison. (New York state)

7. Plaintiff is proceeding under section 1983 and is suing all defendants in their individual and official Capacities. (see Notice for specifics)

Parties

8. Plaintiff DeVonté Rashad Lee Moorner is a natural Black male/man, with long hair and a long beard, of Akbulah, also known as Africa, Origin, born and residing in the State of New York.

9. Defendant State of New York is a public entity established and maintained by the Laws and Constitution of the State of New York, and owns, operates, manages, directs, and/or Controls the Department of Corrections and Community Supervision, ~~employ~~^{employs}; and ~~is responsible~~^{is responsible} for the Department of Corrections and Community Supervision, employs, and/or is responsible for the other Defendants in this action.

10. Defendant Department of Corrections and Community Supervision is a public ~~entity~~ agency and/or political subdivision of the State of New York, established and maintained by the laws and Constitution of the State of New York, and employs and/or is responsible for the other Defendants in this action.

11. At all times relevant to this action, defendants Terrance McCann and Stephen Kokotajlo, Donald Lockwood, Robert O'Leary, Russell Fox, Kevin J. Brown, Christopher Yehl and Anthony Annucci, badge numbers unknown were white males, employed as New York State Sergeants, Lieutenants, Captain, Deputy of ~~acting~~^{acting} Superintendent of security, of New York and the Department of Corrections and Community Supervision and was acting within the course and scope of that employment.

12.) Plaintiff is informed and believes, and on the basis of such information and belief alleges, that each of the defendants sued here was negligently, wrongfully, and otherwise responsible in some manner for the events and happenings as subsequently described, and proximately caused injuries and damages to plaintiff. Further, as stated in #11 above, the same is true for defendants, Stephen Kohotajlo, Donald Lockwood, Robert O'Leary, Russell Fox, Kevin S. Brown, Christopher Yehl, and Anthony Annucci. Further, one or more defendants was at all material times responsible for the hiring, training, supervision, and discipline of defendants Terrance McCann, Stephen Kohotajlo, Donald Lockwood, Robert O'Leary, Russell Fox, Kevin S. Brown, and other defendants.

13.) Plaintiff is informed and believes, and on the basis of such information and belief alleges, that each of the defendants was at all material times an agent, servant, employee, partner, joint venturer, coconspirator and/or alter ego of the remaining defendants, and in doing the things here alleged, was acting within the course and scope of that relationship. Plaintiff is further informed and believes, and on the basis of such information and belief alleges, that each of the defendants in this action gave consent, aid, and assistance to each of the remaining defendants, and ratified and/or authorized the acts or omissions of each defendant as alleged here, except as may be subsequently otherwise specifically alleged.

- 14.) At all material times, each defendant was jointly engaged in tortious activity, resulting in the deprivation of plaintiff's Constitutional rights and other harm.
- 15.) At all material times, each defendant acted under color of Laws, statutes, ordinances and regulations of the State of New York.
- 16.) The acts and omissions of defendants Terrance McCann, Stephen Kokotajlo, Russell Fox, Donald Lockwood, Robert O'Leary, Kevin S. Brown, Christopher Yehl and Anthony Annucci at all material times were pursuant to the actual customs, policies, practices and procedures of the State of New York and the Department of Corrections and Community Supervision.
- 17.) This Complaint may be pleaded in the alternative pursuant to Federal Rule of Civil procedure 8 (d) (2) (Fed. R. Civ. P. 8 (d) (2)).

General Allegations

- 18.) On or about November 9th, 2021, plaintiff was working in the Rmu of Wende Correctional facility when he was approached by Sergeant Terrance McCann who immediately began to scream beligerantly at plaintiff stating "you better cut that disgusting shit off your face before I rip it off". This occurred at approximately 2:30 pm on the first floor of said Rmu. My prison co-workers and escorting Correctional officer witnessed this. Plaintiff has a long beard.

- 19.) Plaintiff responded to defendant Sergeant Terrance McCann by stating "the rule restricting me from growing my beard without a religious exemption was removed from the rule book, and section 76.4 of the NYCRR (New York Codes, Rules and Regulations) permits me to adopt hair styles and that the 'Crown Act' was signed into law in New York State".
- 20.) Defendant Sergeant Terrance McCann then became even more infuriated with plaintiff and threatened to make plaintiff "disappear" if he hadn't cut his beard by the next time they encountered each other.
- 21.) A white female corrections officer with the name of Maryanne Solfrank witnessed this exchange. As well as my prison co-workers in the Rmu.
- 22.) During said encounter, Defendant aggressively expressed to plaintiff that even though the rule was removed from the rule book, he could still give plaintiff a direct order to cut his beard because directive #4914 was still in effect. Defendant Sergeant Terrance McCann expressed this.
- 23.) On or about November 30th, 2021, Plaintiff was walking out of the mess hall area into the mega corridor at approximately 12:30 pm, within Wende Correctional Facility in New York State, when he was approached by Sergeant Terrance McCann, defendant, who again began beligerently screaming at plaintiff, in front of defendant's co-workers, and telling him

to cut his beard off immediately "or else". This was a threat, plaintiff had remained silent during this encounter.

24. On or about December 22nd, 2021, in the A and D Lobby of Wendel Correctional Facility, in New York State, at approximately 4:45pm plaintiff was selected to step out of line to be pat frisked, defendant Sergeant Terrance McCann Ordered the Selecting and the Escorting Correctional Officer Conducted the pat frisk directed by defendant Terrance McCann.

25. Plaintiff was guided to the wall in same said area where he was pat frisked by a Correctional Officer all while defendant Terrance McCann, very calmly, stated "you know whats gonna happen to you right" as defendant Terrance McCann reached out and attempted to grab Plaintiff's beard. However while still holding the wall Plaintiff quickly turned his head away from defendant Terrance McCann to avoid having his beard pulled and ripped off by defendant Terrance McCann, yet plaintiff remained silent during this encounter.

26. On or about December 23rd, 2021, plaintiff received a false misbehavior report authored by defendant Terrance McCann with the rule violations of 106.10 Direct Order, 102.10 Threats and 107.10 Interfere with an employee. The description of the incident reads as follows: "On the above date and time, I gave I/I moorer 1132591 a direct order to cut his unauthorized braided beard of 6". Inmate Moorer does not have a accommodation request and does not have one for religion. I/I moorer told me I was wrong, and that I am harrassing him and I will see. I told him that I/I Grooming Standards had not changed. I/I moorer was told not to make threats. This is the third time I have given I/I moorer a direct order to cut this ~~beard~~ braided beard off. I have explained all three times to him that the grooming misbehavior

Charge has been eliminated, but Directive 4914 I/I
Grooming Standards has not. The First Direct Order
was on November 9th in the RMU and again on
November 30th coming out of the messhall. I/I
Moore has deliberately ignored my direct orders
to cut his unauthorized braided beard to one
inch and remove the braid pattern."

Plaintiff's Tier II ~~Disciplinary~~ Disciplinary hearing was
conducted shortly thereafter, on or about January
2nd, 2022, in the disciplinary hearing room by
defendant Lieutenant Robert O'Leary in Wende
Correctional Facility in New York State in which
Plaintiff properly presented arguments, evidence and
testimony but was still found guilty of rules 106.10
Direct Order and 107.10 Interfere with an employee
but was found not guilty of rule 102.10 Threats.
Plaintiff had submitted as evidence the "Crown
Act" which strictly forbids hair discrimination
deeming it racial discrimination, the New York State
DOCCS memorandum from James O'Gorman, Deputy
Commissioner for Correctional Facilities dated December
8th, 2020 which removed rule 110.32 - Beard/Mustache
from the Standards of Inmate Behavior. As well as testimony
and other evidence. Plaintiff appealed to defendant
Superintendent Christopher Yehl.

27. On January 1st, 2022, in Wende Correctional Facility in
New York plaintiff filed a grievance against defendant
Terrance McCann describing the incidents stated above.

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This grievance was stamped "received" on January 3rd, 2022; by Wende Correctional Facility's grievance program. Plaintiff also sent a letter, certified mail return receipt, to Attorney General Leticia James of New York State on January 1st, 2022, detailing the incidents described above. Then on January 2nd, 2022, Plaintiff's cell was searched by Correctional Officer Gregory Van Bourgondien who first conveyed to the gallery porter that "they told me to tear up Moorer's cell but I'm not going to do their dirty work, tell Moorer that", and the gallery porter then conveyed that message to Plaintiff and shortly thereafter Plaintiff's cell was frisked with his property undamaged.

28. On January 6th, 2022, Plaintiff's appeal to said misbehavior report dated December 22nd, 2021, and received on or about December 23rd, 2021, was denied by Deputy Superintendent of Security of Wende Correctional Facility defendant Kevin J. Brown. Said defendant is a CO-Conspirator. Plaintiff's disciplinary restrictions of 15 days loss of packages, commissary, and recreation was subsequently upheld by said denial and Plaintiff suffered such losses.

29. On January 13th, 2022, Plaintiff's grievance to said incidents regarding the first misbehavior report dated December 22nd and 23rd, 2021, stated above was denied in which the Security Supervisor who investigated the matter was defendant Russell Fox who was also Plaintiff's future hearing officer.

31.) On January 19th, 2022, defendant Terrance McCann approached plaintiff on the second floor and again on the fourth floor of the RmU of Wende Correctional facility in New York State and began to belittle and berate plaintiff while posturing plaintiff. Incarcerated Individual Reginald McFadden witnessed this, defendant Terrance McCann also incorporated racial slurs while he berated plaintiff saying "I fucking hate you people, I live for the day to throw your fucking monkey ass in the box, just wait".

32.) On January 20th, 2022, Plaintiff was escorted back to his cell from the RmU where he worked, in Wende Correctional facility in New York State and was told by Mary Ann Solfrank that defendant Donald Lockwood had called for plaintiff's termination for said RmU job/program, because plaintiff refused to cut his beard, plaintiff was also denied recreation for the remainder of that day.

33.) On or about January 21st, 2022, Plaintiff was relocated to another cell then on or about January 25th, 2022, Plaintiff was again relocated to yet another cell this second move was witnessed by C.O. Mary Ann Solfrank and Sgt. Michael Stachewicz whom ~~felt~~ plaintiff then informed of the retaliatory measures being taken against plaintiff. On January 25th, 2022, plaintiff submitted yet another grievance within Wende Correctional facility against defendants Donald Lockwood and Terrance McCann stating that those defendants approached plaintiff separately on January 5th, 2022, and threatened that plaintiff would "never have another visit in this jail again if you still have that shit on your face by this time tomorrow", and that he (defendant) would call the block to tell the C.O.'s not to let plaintiff out of his cell.

34.) On or about January 27th, 2022, Plaintiff received yet another misbehavior report authored by defendant Sergeant Terrance McCann for the alleged rule violation of 106.10 direct order with a description of the incident stating

for the Description of Incident: "On 1-19-22, I was working in the Rmu. I/I moorer 11B2591 was on the second floor of the Rmu, while I was making my rounds. I/I moorer has a braided hanging from his chin and does not comply with Directive 4914 I/I grooming Standards. I have given I/I moorer several direct orders in the past to cut this off his chin. I again gave I/I moorer a direct order to remove this braid. On 1-26-22, I was working on 3-11 and observed I/I moorer coming out of the Mess Hall and he has still not removed this braid from his chin to come in compliance with Directive 4914. I/I moorer has been given sufficient time to cut this from his chin, but continues to ignore all direct orders by myself, a LTJ and a Capt. I/I moorer does not have a beard exception or any other permit allowing him to have this on his face." What was not included in said description is the derogatory and racial comments defendant Terrance McCann used to inflict pain on plaintiff as well as the physical attempt to snatch ~~defendant's~~ Plaintiff's beard to rip it off of his face. Which Incarcerated Individual Felix Medina witnessed the January 19th, 2022, incident Stated above.

35. On February 1st, 2022, ~~another~~ hearing was conducted for the January 26th, 2022, misbehavior (27th)

report authored by defendant Terrence McLean. The hearing officer for this hearing was defendant Robert O'Leary, in Wende Correctional Facility in New York State in which plaintiff was subsequently found guilty even after plaintiff presented the same evidence and testimony that plaintiff submitted during his first disciplinary hearing for the misbehavior report dated December 22nd, or 23rd, 2021, as stated previously. Plaintiff received 20 days loss of commissary, recreation and packages. Plaintiff appealed said disposition for the misbehavior report dated January 26th or 27th, 2022, to the defendant Superintendent Christopher Yehl.

36. On February 8th, 2022, Plaintiff's appeal to his January 26th ^(or 27th), 2022, misbehavior report was denied again by Wende Correctional Facility's Deputy Superintendent of security defendant Kevin S. Brown.

37. On February 9th, 2022, said grievance dated January 28th, 2022, was denied and plaintiff appealed to the C.O.R.C. (highest appeal level).

38. On February 18th, 2022, Plaintiff received yet another misbehavior report in Wende Correctional Facility in New York State authored by defendant Stephen Kokotajlo with the rule

Violations being 106.10 Direct Order and 181.10 non compliance with ~~the~~ disciplinary hearing with a description of the Incident being: "On the above date, I/I moorer was exiting the mess hall after morning chow. I/I moorer 1152591 was observed with a braided beard that is approx. 9" long and does not comply with Directive 4914. I/I moorer was found guilty on Feb. 1, 2022, for a direct order to cut this braided beard. I/I moorer has failed to comply with the disciplinary hearing. I/I moorer was again given a direct order to cut this braided beard and come in compliance with Directive 4914."

39. On or about February 18th, 2022, Plaintiff was so traumatized and in fear for his life that he physically shut down and muted himself. Plaintiff remained completely silent for approximately 60 days, not uttering one word, with the only exception of talking to his mother. Many Correctional officers witnessed this including but not limited to Plaintiff's gallery officers, Law Library officers, hearing officers.

40. On February 28th, 2022, a disciplinary hearing for the February 17th, 2022 and 18th, 2022, misbehavior report began within Wende Correctional Facility in New York State with defendant Lieutenant Russell Fox as Plaintiff's hearing officer in which plaintiff was subsequently found guilty of both

Charges and giving 25 days of loss of all privileges including the phone home privilege. Plaintiff then appealed said disposition.

41) On February 18th, 2022, plaintiff again filed another grievance within Wende Correctional facility in New York State in respects to the February 17th/18th, 2022, incident whereas Sergeant Terrance McCann, defendant, scoffed a racial slur while posturing plaintiff in the mega corridor of said facility.

42) On March 7th, 2022, said appeal was subsequently affirmed by Wende Correctional facility's Deputy Superintendent of Security defendant Kevin S. Brown.

43) Plaintiff could not receive any relief or remedy from said grievances because defendant Sergeant Terrance McCann was also the grievance Sergeant.

44) On February 23rd, 2022, plaintiff filed a grievance in respects to a surreptitious incident within Wende Correctional facility in New York State whereas plaintiff was forced to only purchase from the restricted buy commissary sheet even though plaintiff was not at that time serving any restrictions.

45) On March 8th, 2022, said grievance was subsequently denied and plaintiff appealed to the C.O.R.C, this grievance pertained to the February 17th/18th, 2022, incident.

46) On March 18th, 2022, said grievance with respect to the restricted buy sheet was denied in part and granted in part, however no remedy came to fruition even though one was directed by the I.G.R.C, Anti Plaintiff ~~was~~ appealed said denial to the C.O.R.C.

47) On or about April 15th, 2022, Plaintiff made a request to Superintendent Christopher Yehl, defendant, within Wende Correctional Facility in New York State, to receive legal documents through a visit from his mother, of course with the acknowledgement of the security measures that would undoubtedly ensue. Defendant Captain Donald Lockwood denied said request.

48) On April 19th, 2022, in respects to said grievance about the restricted commissary buy appeal, was denied by the C.O.R.C. .

49) On or about April 21st, 2022, Plaintiff's appeal to said grievance in respects to the incident occurring on or about February 18th, 2022, was denied by the C.O.R.C. .

50) For the duration of said events, Plaintiff was systematically forced to risk being seen by any of the defendants in this case, every time Plaintiff left his cell, in order to eat food from the mess hall, the only food available to him due to his consecutive restrictions especially since at all times there is at least one Sergeant and Lieutenant posted in the mega corridor which all must pass through to get to the mess hall.

51) At all times during Plaintiff's encounters with defendants separately, Plaintiff behaved lawfully and ~~and~~ peacefully. Plaintiff never displayed any weapon, violence, aggression or threatened the safety and/or security of any person in any way.

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52.) The systematic racial discrimination techniques used by defendants against plaintiff was unjustified and objectively unreasonable under the circumstances.

53.) Defendants' use of Department of Corrections and Community Supervisions directive #4914 Grooming Standards to racially and aggressively oppress and harass and discriminate [against] plaintiff and subsequently cause plaintiff mental^{and} emotional anguish, depression, Anxiety, Post traumatic Stress triggering etc... was wrongful and harmful and damaging especially to plaintiff's dignity.

54.) Defendants use of their authority to systematically torture and retaliate against Plaintiff lasted for an excessive amount of time, was conducted unreasonably and was done without probable cause, reasonable suspicion or other legal right.

55.) At all material times, and alternatively, the actions and omissions of each defendant were intentional, wanton, and/or willful, Conscience Shocking, reckless, malicious, deliberately indifferent to plaintiff's rights, done with actual malice, grossly negligent, negligent and objectively unreasonable.

56.) As a direct and proximate result of each defendant's acts and/or omissions as set forth above, Plaintiff sustained the following injuries and damages, past, future and currently, among others:

a.) Wrongful and unlawful Confinement

- b.) Racial profiling, racial bias and discrimination
- c.) Deprivation of Liberties and Prison privileges
- d.) Humiliation
- e.) Pain and suffering; including emotional distress
- f.) Loss of wages and earning capacity
- g.) violation of Constitutional rights State and Federal
- h.) Retaliation and harassment
- i.) All damages and penalties recoverable under 42 U.S.C. §§ 1983 and 1988, and as otherwise allowed under New York State and United States Statutes, Codes and common Law.

57.) Plaintiff filed a timely claim with defendant State of New York pursuant to 42 U.S.C.A., New York State CPLR § 217-a.

First Cause of Action

(Against Defendants sergeants Terrance McCann and Stephen Kokotajlo)
(Violation of 42 U.S.C.A. § 1983)

58.) The allegations of each of the preceding paragraphs are realleged and incorporated here by reference.

59.) By the actions and omissions described above, defendants Sergeants Terrance McCann and Stephen Kokotajlo, violated 42 U.S.C.A. § 1983, depriving Plaintiff of the following clearly established and well-settled

Constitutional rights protected by the First, Eighth and Fourteenth Amendments to the U.S. Constitution:

- (a) The right guaranteeing the freedoms of speech, religion, press and petition as secured by the First Amendment;
- (b) The right prohibiting excessive bail, excessive fines, and Cruel and unusual punishment, as secured by the Eighth amendment;
- (c) The right to be free from racial profiling and racial discrimination as secured by the fourteenth Amendment;
- (d) The right to equal protection of the laws as secured by the Fourteenth and the First and the Eighth amendments;
- (e) As a direct and proximate result of defendant's acts and/or omissions, plaintiff sustained injuries and damages as set forth above in paragraph ~~55~~ 56.
- (f) Defendants subjected plaintiff to their wrongful conduct, depriving plaintiff of rights described above knowingly, maliciously, and with conscious and reckless disregard for whether the rights and safety of Plaintiff and others would be violated by their acts and/or omissions.
- (g) The conduct of defendants entitles plaintiff to punitive damages and compensatory damages and penalties allowable under 42 U.S.C.A. § 1983 and New York State Law.

(3) Plaintiff is also entitled to reasonable costs and attorney's fees under 42 U.S.C.A. § 1988 and applicable New York State codes and Law.

Wherefore, Plaintiff requests relief as set forth below.

Second Cause of Action

(violation of 42 U.S.C.A. § 1983)

(Against Defendants Robert O'Leary, Russell Fox, and Donald Lockwood)

- (4) The allegations of each of the preceding paragraphs are realleged and incorporated here by reference.
- (5) By the actions and omissions described above, defendants Robert O'Leary, Russell Fox and Donald Lockwood, violated 42 U.S.C.A. § 1983, depriving Plaintiff of the following clearly established and well-settled Constitutional rights protected by the Fifth, Eighth and Fourteenth Amendments to the U.S. Constitution:
- (a) The right to be free from cruel and unusual punishment as secured by the Eighth and Fourteenth amendments;
 - (b) The right to be free from racial profiling and racial discrimination as secured by the Eighth and Fourteenth amendments;
 - (c) The right to due process of Law as secured by the fifth, Eighth and Fourteenth amendments;
 - (d) The right to equal protection of the Laws as secured by the Fourteenth, Fifth and Eighth amendments;

66.) As a direct and proximate result of defendants' acts and/or omissions, Plaintiff sustained injuries and damages as set forth above in paragraph 56.

67.) Defendants subjected Plaintiff to their wrongful Conduct, depriving plaintiff of rights described above knowingly, maliciously, and with conscious and reckless disregard for whether the rights and safety of plaintiff and others would be violated by their acts and/or omissions.

68.) The Conduct of defendants entitles Plaintiff to punitive damages and compensatory damages and penalties allowable under 42 U.S.C.d. § 1983 and New York State Law.

69.) Plaintiff is also entitled to reasonable costs and attorney's fees under 42 U.S.C.d. § 1988 and applicable New York State codes and Law.

Wherefore, Plaintiff requests relief as set forth below.

Third Cause of Action

(violation of 42 U.S.C.d. § 1983 - Supervisory and political agency and/or ~~Subdivision~~ ~~and/or~~ and/or municipality Liability)
(Against Defendants State of New York, Donald Lockwood, Kevin J. Brown, Christopher Yehl, and Anthony Annucci and Department of Corrections and Community Supervision)

70.) The allegations of each of the preceding paragraphs are realleged and incorporated here by reference.

71.) Plaintiff is informed and believes, and on the basis of such information and belief alleges, that the unconstitutional

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actions and/or commissions of defendants Terrance McCann and Stephen Kokotajlo, Donald Lockwood, Robert O'Leary, Russell Fox, Kevin S. Brown, Christopher Yehl, Anthony Annucci, as well as other officers employed by or acting on behalf of defendants State of New York and defendants ~~Department of Corrections~~ and ~~Community Supervision~~ were pursuant to the following customs, practices, policies, and/or procedures of the defendants Anthony Annucci and Christopher Yehl, stated in the alternative, which were directed, encouraged, allowed, and/or ratified by policy-making officers for defendant State of New York and defendants ~~Department of Corrections~~ and ~~Community Supervision~~: Community Supervision:

- (a) To use or tolerate the use of cruel and unusual punishment;
- (b) To use or tolerate the use of racial profiling and racial discrimination;
- (c) To use or tolerate the use of violations of Plaintiff's due process rights;
- (d) To use or tolerate the use of retaliation and harassment;
- (e) To engage in unreasonable seizures and/or tolerate unreasonable seizures;
- (f) To engage in or tolerate differential treatment when filing, deliberating and administering disciplinary measures [for] relating to misbehavior reports, requests and prison programs/job;

based on a person's race;

- (g) To fail to institute, require and enforce proper and adequate training, supervision, policies and procedures concerning seizures, hair lengths and styles, race based directives, race based codes and rules, hair length and styles codes and rules and regulations;
- (h) To fail to institute, require, and enforce proper and adequate training, supervision, policies, and procedures and practices concerning racial profiling and racial discrimination;
- (i) To fail to institute, require, and enforce proper and adequate training, supervision, practices, policies and procedures concerning harassment and retaliation;
- (j) To fail to institute, require, and enforce proper and adequate training, supervision, practices, policies and procedures concerning misbehavior reports, disciplinary hearings, disciplinary dispositions, requests for and prison programs/jobs, and Liberties;
- (k) To cover-up violations of Constitutional rights by any or all of the following:
 - (i) By failing to properly investigate and/or evaluate complaints or incidents of unlawful seizures, use of force, racial profiling, racial discrimination, harassment, retaliation, misbehavior

reports, disciplinary hearings, grievances, codes, rules, and regulations;

(ii) By ignoring and/or failing to properly and adequately investigate and discipline unconstitutional or unlawful officer activity or administrator activity; and

(iii) By allowing, tolerating, and/or encouraging Correctional officers, Sergeants, Lieutenants, Captains, Deputies of security Superintendents, Superintendents, Acting Commissioners, hearing officers to: fail to file complete and accurate corrections reports (i.e. misbehavior reports, etc...); file false correctional reports (i.e. misbehavior reports, etc...); make false statements; intimidate; retaliate; harass; discriminate against; bias and/or "coach" witnesses to give false information and/or to attempt to bolster officers' stories; and/or punish; and/or obstruct or interfere with investigations of unconstitutional or unlawful officer, sergeant, ~~Lieutenant~~ Lieutenant, Captain, Deputy of security superintendent, superintendent, hearing officer, acting ~~commissioner~~ Commissioner conduct, by withholding and/or concealing material information.

(4) To allow, tolerate, and/or encouraging corrections officers, Sergeants, Lieutenants, Captains, & Dep. Sup. of security, Superintendents, and Acting Commissioners to: fail to file complete and accurate Department of Corrections and Community Supervision reports.

(m) To allow, tolerate, and/or encourage a "code of silence" among law enforcement officers and Department of Corrections and Community Supervision personnel, by which an officer or member of the

Case 6:23-cv-06040-FPG-CDH Document 1 Filed 01/17/23 Page 29 of 63

department does not provide adverse information against a fellow officer or member of the department or hold another member accountable for official misconduct; and

(b) To use or tolerate inadequate, deficient, and improper procedures for handling, investigating, and reviewing complaints of officer misconduct, including claims made under § 40-C § 50-e, § 296, § 40-C § 83, § 41, § 51, § 1981, § 12203, § 235-d, § 8, § 63, Article 1812, Article 186;

72.) Defendants State of New York, the Department of Corrections and Community Supervision failed to hire, train, instruct, monitor, supervise, evaluate, investigate and discipline defendants Terrance McCann, Stephen Kokotajlo, Donald Lockwood, Robert O'Leary, Russell Fox, Kevin S. Brown, Christopher Yehl and Anthony Annucci, and other law enforcement personnel, with deliberate indifference to plaintiff's Constitutional rights, which were thus violated as described above.

73.) The unconstitutional actions and/or omissions of defendants Terrance McCann, Stephen Kokotajlo, and other law enforcement personnel as described above, were approved, tolerated, and/or ratified by policy-making officers for the Department of Corrections and Community Supervision. Plaintiff is informed and believes, and on the basis of such belief and information alleges, that the details of this of this incident have been revealed to the authorized policy makers within defendant State of New York and the Department of Corrections and Community Supervision, and that such policy-makers ~~within defendant~~ ~~State of New York~~ have direct knowledge of the facts of this incident. Notwithstanding this knowledge, the authorized policy-makers within defendant State of New York and the Department of Corrections and Community Supervision have approved ~~the~~ of the conduct of defendants Terrance McCann, ~~a~~ Stephen Kokotajlo,

Case 6:23-cv-06040-FPG-CDH Document 1 Filed 01/17/23 Page 30 of 63

and other defendants and other department personnel, and have made a deliberate choice to endorse the decisions of those defendant officers, sergeants, lieutenants, captain, Dep. Sup. of Security, Superintendents, and the basis for those decisions. By doing so, the authorized policy-makers within defendant State of New York and the Department of Corrections and Community Supervision have shown affirmative agreement with the individual defendant officers', sergeants, lieutenants, captain, ~~So~~ Dep. Sup. of Security, Superintendent, acting commissioners' actions, and have ratified the unconstitutional acts of the individual defendant officers, sergeants, lieutenants, captain, Dep. Sup. of Security, Superintendent, and acting Commissioner.

74.) The above-mentioned customs, policies, practices and procedures, the failures to properly and adequately hire, train, instruct, monitor, supervise, evaluate, investigate, and discipline, as well as the unconstitutional orders, approvals, ratification, and toleration of wrongful conduct of defendants State of New York, the Department of Corrections and Community Supervision, and Terrance McCann, Stephen Kokotajlo, Russell Fox, Donald Lockwood, Robert O'Leary, Christopher Yehl, and Anthony Annucci, were a moving force and/or a proximate cause of the deprivations of Plaintiff's clearly-established and well-settled constitutional rights in violation of 42 U.S.C.A. § 1983, as more fully set forth above. (And also Kevin S. Brown)

75.) Defendants subjected plaintiff to their wrongful conduct, depriving plaintiff of rights described in this complaint, knowingly, maliciously, and with conscious and reckless disregard for whether the rights and safety of plaintiff and others would

76.) As a direct and proximate result of the unconstitutional actions, omissions, customs, policies, ~~practices~~ practices and procedures of defendants State of New York, the Department of Corrections and Community Supervision and defendants Terrance McCann, Stephen Kokotajlo, Russell Fox, Robert O'Leary, Donald Lockwood, Christopher Yehl, and Anthony Annucci and Kevin S. Brown, as described above, plaintiff sustained serious injury and is entitled to damages, penalties, costs, and attorney's fees as set forth above, and punitive damages against defendants Terrance McCann, Stephen Kokotajlo, Russell Fox, Robert O'Leary, Donald Lockwood, Kevin S. Brown, Christopher Yehl, and Anthony Annucci, in their individual capacities.

Wherefore, plaintiff requests relief as set forth below.

Fourth ~~where~~ Cause of Action

(Violation of State Civil Rights Law)
(Against All Defendants)

77.) The allegations of each of the preceding paragraphs are realleged and incorporated here by reference.

78.) By the actions and omissions described above, each defendant acting in concert/conspiracy, as described above and below, violated Plaintiff's rights under ^{article 1 § 6, article 1 § 12, § 50-e, § 296, § 235-d, § 83, § 41, § 51, § 8, § 1981, § 12203, § 40-c,} and the following clearly established rights under the United States Constitution and the New York State Constitution:

(a) The right to be free from racial profiling and racial discrimination as secured by the First, Fifth, Eighth and Fourteenth amendments to the United States Constitution;

- (b) The right guaranteeing the freedoms of speech, religion, press and petition as secured by the First, Eighth and Fourteenth and Fifth amendments to the United States Constitution;
- (c) The right prohibiting excessive bail, excessive fines, and cruel and unusual punishment as secured by the Fifth, Eighth and Fourteenth amendments to the United States Constitution;
- (d) The right to Equal protection of the Laws as secured by the Fourteenth, Fifth, First and Eighth amendments to the United States Constitution;
- (e) The right to enjoy and defend life and liberty, acquire, possess and protect property, and pursue and obtain safety, happiness, and privacy, as secured by the New York State Constitution, §240, article 1, §6;
- (f) The right to be free from unreasonable searches and seizures as secured by the Fourth and Fourteenth amendments to the United States Constitution;
- (g) The right to be free from excessive and unreasonable force in the course of arrest or detention as secured by the Fourth and Fourteenth amendments to the United States Constitution;
- (h) The right to life, liberty, and property and not to be deprived of those without due process of law, as secured by the New York State Constitution, ~~§240, article 1, §6~~, §240, article 1, §6; article 1, §12;
- (i) The right to be free from unlawful and unreasonable seizure of one's person as secured by the New York State Constitution, ~~§8~~ §8, article 1, §12;

- (j) The right to be free from unreasonable or excessive force, as secured by the New York State Constitution, § 8; Article 1 § 12;
- (k) The right to equal protection of the Law, as secured by the New York State Constitution, § 11 and Article 1 § 6;
- (l) The right to due process of the Law, as secured by the New York State Constitution, ~~§ 11~~ Article 1 Subdivision 6;
- (m) The right to protection from bodily restraint, harm, or personal insult, as secured by § 51, article 1 § 6; article 1 § 12;
- (n) The right to freedom of speech, religion, press and petition as secured by the New York State Constitution, § 240;
- (o) The right to be free from excessive bail, excessive fines, and cruel and unusual punishment as secured by the New York State Constitution, § 11, article 1 § 6;
- 79.) Defendants' violation of § 40-C, § 296, ~~§ 297~~, § 1981, § 12203, article 1 § 6, article 1 § 12, § 11, § 51, § 235-d, § 300.508 and plaintiff's Constitutional and Statutory rights was, in part, because of plaintiff's race, ancestry, and/or national origin.
- 80.) As a direct result of defendants' violation of and plaintiff's rights under the United States and New York State Constitutions and Statutes, plaintiff sustained injuries and damages and is entitled to relief as set forth above, including all damages allowed by and New York State law, not limited to costs, attorney's fees, treble damages and civil penalties.
- Wherefore, Plaintiff requests relief as set forth below.

Fifth Cause of Action
(Negligence; Personal Injuries)
(Against All Defendants)

81.) The allegations of each of the paragraphs set forth above are realleged and incorporated here by reference.

82.) At all times relevant to this action, each defendant owed Plaintiff the duty ~~to~~ to act with due care in the execution and enforcement of any right, law, or legal obligation.

83.) At all times, each defendant owed plaintiff the duty to act with reasonable care.

84.) These general duties of reasonable care and due care owed to plaintiff by all defendants include, but are not limited to, the following specific obligations:

(a) To refrain from using excessive and/or unreasonable force against Plaintiff;

(b) To refrain from wrongfully arresting and/or detaining and/or confining Plaintiff and or restricting plaintiff's liberties;

(c) To refrain from abusing their authority granted them by law;

(d) To refrain from violating Plaintiff's rights guaranteed by the United States and New York State Constitutions, as set forth above, and as otherwise protected by law.

85.) Additionally, these general duties of reasonable care and due care owed to Plaintiff by defendants State of New York, the Department of Corrections and Community Supervision, Terrance McCann, Stephen Kokotajlo, Russell Fox, Robert O'Leary, Donald Lockwood, Kevin S. Brown,

Christopher York and Anthony D'Amico; include but are not limited to, the following specific obligations:

- (a) To properly and adequately hire, investigate, train, supervise, monitor, and discipline their employees, agents, and/or Department of Corrections and Community Supervision members, employees, staff, officers, Sergeants, Lieutenants, Captains, Dep. Sup. of security, Superintendents, Acting Commissioners, to ensure that those employees/agents/officers act at all times in the public interest and in conformance with law;
- (b) To make, enforce, and at all times act in conformance with policies and customs that are lawful and protective of individual rights, including those of plaintiff; and
- (c) To refrain from making, enforcing, and/or tolerating the wrongful policies and customs set forth above.

86.) Defendants, through their acts and omissions, breached each and every one of the above-mentioned duties owed to Plaintiff.

87.) AS a direct ~~cause~~ and proximate result of defendant's negligence, Plaintiff sustained injuries and damages, and is entitled to relief as set forth below.

Statement for additional Causes
of action for intentional infliction
of emotional distress

88.) Defendants ~~Terrance McCann and Stephen Kokotajlo~~ ^(Plaintiff) targeted Plaintiff especially Terrance McCann and did almost everything

they could strip plaintiff of his dignity and pride in his race, national origin, heritage, culture, and ancestry by constantly degrading him, spitting racial slurs and physically trying to rip ~~plaintiff's~~ ^{plaintiff's} beard off of his face. ~~plaintiff~~ ^{plaintiff} has lost his dignity and pride in himself, is now ashamed to be a black man with long hair. ~~plaintiff~~ ^{plaintiff} was tortured for a natural occurrence (i.e. letting his hair grow) and all ~~plaintiff~~ ^{plaintiff} could do is keep his hair maintained, well groomed and clean. ~~plaintiff~~ ^{plaintiff} was even afraid to go to the ~~mess~~ ^{mess} hall to eat (which he had to do in order to eat since he was consistently on loss of commissary and packages, etc) because ~~plaintiff~~ ^{plaintiff} knew that he would have to walk past at least one of the defendants and be subjected to whatever torture defendants decided to inflict upon ~~plaintiff~~ ^{plaintiff} for that day. ~~plaintiff~~ ^{plaintiff} had emotionally and physically shut down from the fear and torture inflicted and went mute for approximately 60 days, psychologically trying to cease to exist without actually killing himself although plaintiff considered such actions however his mother talked him out of it. Defendants intentionally inflicted emotional distress upon Plaintiff, when they did the things stated above.

To what extent do Black lives matter?

Request For Relief

Wherefore, plaintiff respectfully request the following relief against each and every ~~defendant~~, jointly, separately, and severally:

- 1.) Compensatory and exemplary damages in an amount according to proof and which is fair, just, and reasonable;
- 2.) Punitive damages under 42 U.S.C.A. §1983 and New York State Law against the individual defendants in an amount according to proof and which is fair, just, and reasonable;
- 3.) All other damages, penalties, costs, interest, and attorney's fees ~~as~~ allowed by 42 U.S.C.A. §§1983 and 1988, and as otherwise may be allowed by New York State and/or Federal Law;
- 4.) Injunctive relief directing the State of New York and the Department of Corrections ~~to~~ ^(ordering) and Community Supervision to remove #4914 from their Directives;
- 5.) An order prohibiting defendants and their co-workers from unlawfully retaliating against Plaintiff for filing this lawsuit and from unlawfully interfering with the rights of Plaintiff and others to be free from ~~unreasonable~~ racial profiling and racial discrimination and biases against Plaintiff or others based on their race.
- 6.) An order prohibiting defendants and their co-workers from unlawfully interfering with the rights of plaintiff

And others to be free from unreasonable searches and Seizures and excessive and unreasonable force;

7.) An order prohibiting defendants and their co-workers from engaging in the "Code of Silence" as may be supported by the evidence in this case;

8.) An order requiring defendants to rescind any and all of their policies, practices, procedures, and/or customs allowing defendants and/or other Department of Corrections and Community Supervision employees/agents or otherwise, to engage in racial profiling and/or discrimination based on race, and retaliation and harassment;

9.) An order requiring defendants to institute and enforce appropriate and lawful policies and procedures prohibiting racial profiling, racial discrimination, harassment, and retaliation and the use of ~~force~~ excessive force;

10.) An order requiring defendants to reverse all three misbehavior reports in respects to the issues stated above, dismiss the misbehavior reports and related disciplinary dispositions therefrom and expunge them from Plaintiff's institutional record, and refund the five dollar surcharge for each misbehavior report and subsequent ~~hear~~ disciplinary hearing guilty disposition;

11.) An order requiring defendants to train all Department of Corrections and Community Supervision employees concerning

racial profiling, harassment and discrimination, harassment, retaliation and oppressive systematic measures, and this Court's orders concerning the issues raised in injunctive relief requests ^(four) 4 through 10, above; and


12.) such other and further relief as presented by the evidence in this case and as this court may deem just and appropriate.

Dated: November 21st, 2022

DeVonté Rashad Lee Moorner, Pro se

Plaintiff

DeVonté M.

 Corrections and Community Supervision INCARCERATED GRIEVANCE PROGRAM COMPLAINT FORM	GRIEVANCE NO. WDE-0007-22	DATE FILED
	GRIEVANT NAME DeVonté Moorer	DIN 11B2591
	FACILITY Wende Correctional	HOUSING UNIT A-4-17
	PROGRAM AM WPA PM RMU porter	DATE Jan 1st, 2022

(This form must be filed within 21 calendar days of grievance incident*)

Description of Problem: (Please make as brief as possible and print legibly)

On or about Nov. 8th Sgt. McCann beligerently screamed at me telling me that I better cut my beard before he "throws my monkey ass in the box. On or about Nov. 30th Sgt. McCann, again singled me out and began screaming obscenities and ~~threats~~ threats at me because I had not cut my beard. On or about Dec. 22nd Sgt. McCann for the third time singled me out had me searched (pat frisked) and again screamed obscenities and threats at me. According to The Crown Law (signed July 2019) in New York State it is illegal to oppress and discriminate against me because of my hair. I fear ~~that I am~~ going to be set-up by Sgt. McCann or his officers.

Grievant Signature: _____

Grievance Clerk Signature: _____

Date: _____

Advisor Requested: ☐ YES ☒ NO

Who: _____

Action Requested by Grievant:

- Directive 2914 be removed as it is arbitrary and capitious, and against the law.
- Investigate the harassment, discrimination against hair by Sgt. McCann.
- Prepare announcement to be given at recall strictly prohibiting any and every C.O., Sgt, Lt, and captain from ~~retaliating~~ retaliating against me.
- Retaliating against me in any way. I would also like for Sgt. McCann to take anger management classes.

This Complaint Has Been Resolved as Follows:

Informal Resolution Accepted: (To be completed only if resolved prior to hearing)

Grievant Signature: _____

Date: _____

Witness Signature: _____

Date: _____

If unresolved, you are entitled to a hearing by the Incarcerated Grievance Resolution Committee (IGR)


*An exception to the time limit may be requested under Directive #4040, § 701.6 (g).

FORM 2131 (12/21)

RECEIVED
CAPTAIN'S OFFICE

JAN 03 2022

WENDE CORRECTIONAL FACILITY

 <p>NEW YORK STATE Corrections and Community Supervision</p> <p>INMATE GRIEVANCE PROGRAM</p> <p>SUPERINTENDENT</p>	Grievance No. WDE-0007-22		Date Filed 1/4/22
	Facility Wende		Policy Designation Institutional
	Title of Grievance Harassment		Class Code #49
	Superintendent's Signature 		Date 1/13/22
Grievant Moorer, D.	DIN 11B2591		Housing Unit A-4-17

This grievance has been investigated by a Security Supervisor and includes an interview with the grievant.

During the interview, the grievant stated that they had nothing further to add to their written grievance and they had no witnesses.

The investigating supervisor interviewed the staff member mentioned in the grievance and they denied all allegations made by incarcerated individual Moorer. The staff member provided a written memorandum denying I/I Moorer's allegations.

The Reviewer finds this grievance to be without merit.

The evidence provided to this Reviewer does not substantiate a grievance of harassment by staff.


1/18/22

APPEAL STATEMENT

If you wish to refer the above decision of the Superintendent, please sign below and return this copy to your Inmate Grievance Clerk. You have seven (7) calendar days from receipt of this notice to file your appeal. Please state why you are appealing this decision to C.O.R.C.

Grievant's Signature

Date



Corrections and Community Supervision

KATHY HOCHUL
Governor

ANTHONY J. ANNUCCI
Acting Commissioner


MEMORANDUM

From: Rachael Seguin, Acting Director, Incarcerated Grievance Program
SUBJ: Receipt of Appeal
Date: 3/3/2022

D MOORER 11B2591
Wende Correctional Facility
Your grievance WDE-0007-22 entitled
Harassment/Threats By Sgt.
was rec'd by CORC on 2/9/2022

A disposition will be sent to you after the grievance is reviewed by CORC

MOORE, D (11B2591) *Eastern*

 <p>NEW YORK STATE Corrections and Community Supervision</p> <p>KATHY HOCHUL Governor</p> <p>ANTHONY J. ANNUCCI Acting Commissioner</p>	Grievance Number WDE-0007-22	Desig /Code I/49	Date Filed 01/04/22
	Associated Cases		Hearing Date 08/04/22
	Facility Wende Correctional Facility		
INCARCERATED GRIEVANCE PROGRAM CENTRAL OFFICE REVIEW COMMITTEE		Title of Grievance Harassment/Threats by Sgt.	

GRIEVANT'S REQUEST UNANIMOUSLY DENIED

Upon full hearing of the facts and circumstances in the instant case, the action requested herein is hereby denied. CORC upholds the determination of the Superintendent for the reasons stated.

CORC notes that Sergeant M... denies harassing, threatening or discriminating against the grievant or using racial slurs, and states that the grievant was given three direct orders to bring their braided beard into compliance with Department policy but they failed to do so. It is noted that the grievant was issued a Tier II MBR on 12/22/21 for disobeying a direct order, which was affirmed upon appeal by DSS B... on 1/6/22. CORC asserts that, in accordance with Directive #4914, beards may not exceed one inch in length unless the incarcerated individual has an exemption or Court Order and that patterns, designs or braids in beards is not allowed. CORC notes for clarification that the CROWN Act does not apply to incarcerated individuals in DOCCS custody. CORC asserts that an employee's appropriate performance of their duties and enforcement of the rules and regulations should not be construed as harassment, and finds insufficient evidence to substantiate discrimination or malfeasance by staff.

CORC notes that the grievance program is not intended to support an adversary process and that no reprisals of any kind shall be taken against an incarcerated individual or employee for good faith utilization of this grievance procedure. An incarcerated individual may pursue a complaint that a reprisal occurred through the grievance mechanism.

With respect to the grievant's appeal, CORC has not been presented with any compelling reason to revise Directive #4914 at this time and advises the grievant to follow staff direction in order to avoid similar difficulties in the future. It is noted that the grievant has since been transferred.

MPS/ras

FORM 2131E (9/12)

STATE OF NEW YORK - DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

INMATE GRIEVANCE COMPLAINT

Grievance No.

WDE- 0062-22

CORRECTIONAL FACILITY

Date: Jan. 25 2022

Name: DeVonte Moorer

Dept. No.: 11B2591

Housing Unit: A-5-04

Program: NONE

AM

NONE

PM

(Please Print or Type - This form must be filed within 21 calendar days of Grievance Incident)*

Description of Problem: (Please make as brief as possible) That on or about Jan. 5th, 2022 at approx: 12:00 while on the way to a visit Captain Lockwood and a Sgt. stopped me and Captain Lockwood threatened that I would never have another visit in this jail again if I still have that shit on my face by this time tomorrow" and that he would call the block to tell the C.O.'s not to let me out of the cell. On Jan. 19th Sgt. McCann approached me in the BMU where I was working and again began screaming and threatening me because I had not cut my beard. → continued

Grievant

Signature: DeVonte M.

Grievance Clerk:

Date:

Advisor Requested

☐ YES☐ NO

Who:

Action requested by inmate: Revise/Remove directive #4914 so that it may fall into accordance with the superceding Law "Crown Act".

The Grievance has been formally resolved as follows:

This Informal Resolution is accepted:

(To be completed only if resolved prior to hearing)

Grievant

Signature:

Date:

If unresolved, you are entitled to a hearing by the Inmate Grievance Resolution Committee (IGRC).

* An exception to the time limit may be requested under Directive #4040, section 701.6(g).

Continued

Sgt. McCann's use of racial slurs and posturing techniques are causing me stress and undue hardship.

On Jan. 20th, 2022 while working in the Rmu I was suddenly escorted back to the cell that I reside in and hours later was subliminally told that the captain permanently removed (fired) me from the Rmu porter position because I hadn't cut my beard. I was also denied recreation.

~~And now on Jan 2022 I am again~~

On or about Jan ~~20~~²²th 2020 I was relocated to another cell. and now on Jan 25th, 2020 I am again being relocated. I am being subjected to severe harassment. ~~my~~ Because of my beard Discriminated against because of my beard. ~~My~~ ~~eo~~ State and Federal constitutional rights are being violated. Directive #4914 is in violation of the "Crown Act" Law and is being used to discriminate against me and oppress me because I refuse to cut my beard/hair.

Respectfully,

Inmate
Grievance
Complaint

Response of IGRC: Per investigation it is reported by D. Lockwood Capt. that upon direct order from T. McCann Sgt., the grievant was informed to trim beard in compliance with Dir. 4914. The Crown Act is not included in Dir. 4914.

Grievance denied.

Date Returned to Inmate

2/2/22

IGRC Members

Chairperson

Return within 7 calendar days and check appropriate boxes.*

☒ I disagree with IGRC response and wish to appeal to the Superintendent.

☐ I have reviewed deadlocked responses. Pass-Thru to Superintendent

☐ I agree with the IGRC response and wish to appeal to the Superintendent.

☐ I apply to the IGP Supervisor for review of dismissal

Signed

[Signature]

Grievant

Date

Grievance Clerk's Receipt

Date


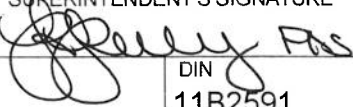
To be completed by Grievance Clerk.

Grievance Appealed to the Superintendent

Date

Grievance forwarded to the Superintendent for action

Date

 Corrections and Community Supervision INCARCERATED GRIEVANCE PROGRAM SUPERINTENDENT RESPONSE	GRIEVANCE NO. WDE-0062-22		DATE FILED 1/28/2022
	FACILITY Wende Correctional Facility		POLICY DESIGNATION
	TITLE OF GRIEVANCE Wants Beard Length Changed		CASE CODE 47
	SUPERINTENDENT'S SIGNATURE 		DATE 2/8/22
GRIEVANT Moorer, Devonte		DIN 11B2591	HOUSING UNIT D 20-3

This reviewer agrees with the IGRC recommendation for the following reasons:

Grievant indicates that on January 5, 2022 and January 19, 2022, grievant was stopped by staff and advised that his beard length was inappropriate and needed to be trimmed. Grievant indicates that on January 20, 2022 he was removed from his porter job because he had not cut his beard. He also had his cell moved on two different occasions. The grievant wants Directive 4914 revised or removed so that it falls into accordance with the Crown Act.

Per investigation, Captain L. reports that the facility follows Directive 4914 which states beard length is to be kept to 1 inch. Grievant's beard is almost 7 inches in length and is braided. This goes against the Directive. Nothing can be done at the facility level to modify the Directive. Grievant's removal from the RMU was for security purposes, as was his cell move.

This grievance appeal is denied.

 2/9/22

APPEAL STATEMENT

If you wish to appeal the above decision of the Superintendent, please sign below and return this copy to the IGRC at the facility where the grievance was filed. You have seven (7) calendar days from receipt of this notice to file your appeal.* Please provide a reason why you are appealing this decision to CORC.

_____	_____
GRIEVANT'S SIGNATURE	DATE
_____	_____
GRIEVANCE CLERK'S SIGNATURE	DATE

*An exception to the time limit may be requested under Directive #4040, section 701.6 (g)



Corrections and Community Supervision

KATHY HOCHUL
Governor


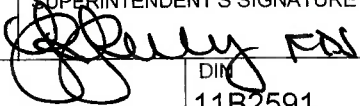
ANTHONY J. ANNUCCI
Acting Commissioner

MEMORANDUM

From: Rachael Seguin, Acting Director, Incarcerated Grievance Program
SUBJ: Receipt of Appeal
Date: 3/3/2022

D MOORER 11B2591
Wende Correctional Facility
Your grievance WDE-0062-22 entitled
Threatened By Sergeant & Captain For Beard
Length/Revise Directive #4914
was rec'd by CORC on 2/16/2022

A disposition will be sent to you after the grievance is reviewed by CORC

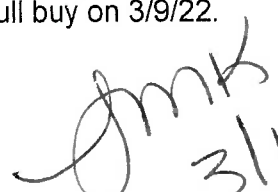
 Corrections and Community Supervision INCARCERATED GRIEVANCE PROGRAM SUPERINTENDENT RESPONSE	GRIEVANCE NO. WDE-0062-22	DATE FILED 2/24/2022
	FACILITY Wende Correctional Facility	POLICY DESIGNATION
	TITLE OF GRIEVANCE Restricted Buy	CASE CODE 35
	SUPERINTENDENT'S SIGNATURE 	DATE 3/17/22
GRIEVANT Moorer, Devonte	DIN 11B2591	HOUSING UNIT D 20-3

This reviewer disagrees with the IGRC recommendation for the following reasons:

Grievant indicates that on February 1, 2022 grievant was party to a disciplinary hearing and received 20 days loss of commissary. Grievant was released from restrictions on 2/21/22, however, he was in receipt of a restricted buy sheet. As such, grievant was not able to purchase his requested items. Grievant wants this issue rectified and he would like a make up buy.

Per investigation, OA 3 L. reports that the grievant was sent a restricted buy sheet on 2/18/22 in error, however, the buy was not until 2/23/22. At no time did the grievant contact the Commissary directly to request a regular buy sheet. Had the grievant done so, the sheet would have been provided. Grievant is reminded that pursuant to Directive 4040, grievant should attempt to rectify any issue with the area in question prior to filing a grievance. It is noted that grievant had a full buy on 3/9/22.

This grievance appeal is denied.


3/18/22

APPEAL STATEMENT


If you wish to appeal the above decision of the Superintendent, please sign below and return this copy to the IGRC at the facility where the grievance was filed. You have seven (7) calendar days from receipt of this notice to file your appeal.* Please provide a reason why you are appealing this decision to CORC.

_____	_____
GRIEVANT'S SIGNATURE	DATE
_____	_____
GRIEVANCE CLERK'S SIGNATURE	DATE

*An exception to the time limit may be requested under Directive #4040, section 701.6 (g)

MOORE, D (11B2591)

Eastern

 NEW YORK STATE Corrections and Community Supervision KATHY HOCHUL <small>Governor</small> ANTHONY J. ANNUCCI <small>Acting Commissioner</small>	Grievance Number WDE-0062-22	Desig./Code D/49	Date Filed 01/28/22
	Associated Cases		Hearing Date 08/04/22
	Facility Wende Correctional Facility		
INCARCERATED GRIEVANCE PROGRAM CENTRAL OFFICE REVIEW COMMITTEE		Title of Grievance Threatened by Sgt. & Capt. For Beard Length/Revise Directive #4914	

GRIEVANT'S REQUEST UNANIMOUSLY DENIED WITH CLARIFICATION

Upon full hearing of the facts and circumstances in the instant case, the action requested herein is hereby denied with clarification. CORC upholds the determination of the Superintendent for the reasons stated.

CORC notes that Captain L... denies harassing or threatening the grievant on 1/5/22, and Sergeant M... denies threatening the grievant, using racial slurs or being unprofessional on 1/19/22. It is noted that the grievant has been given multiple direct orders to bring their braided beard into compliance with Department policy but they continually fail to do so. It is noted that the grievant was issued Tier II MBRs on 12/22/21 and 1/26/22 for disobeying direct orders regarding their continued non-compliance with the grooming standards, which were affirmed upon appeal by DSS B... on 1/6/22 and 2/8/22, respectively. CORC asserts that, in accordance with Directive #4914, beards may not exceed one inch in length unless the incarcerated individual has an exemption or Court Order, and that patterns, designs or braids in beards is not allowed. CORC notes that the grievant does not have an exemption or Court Order for their beard. Further, for clarification, CORC asserts that the CROWN Act does not apply to incarcerated individuals in DOCCS custody. CORC also asserts that an employee's appropriate performance of their duties and enforcement of the rules and regulations should not be construed as harassment, and finds insufficient evidence to substantiate a violation of their rights or malfeasance by staff.

CORC notes that the grievant was removed from their RMU porter assignment for security reasons after they were found to be making phone calls in the RMU during work hours. In addition, CORC upholds the discretion of the facility administration to determine an incarcerated individual's housing location within the facility.

With respect to the grievant's appeal, CORC has not been presented with any compelling reason to revise Directive #4914 at this time and advises the grievant to follow staff direction in order to avoid similar difficulties in the future. It is noted that the grievant has since been transferred.

MPS/ras

INMATE GRIEVANCE COMPLAINT

Grievance No.

WDE- J107-22

Wende

CORRECTIONAL FACILITY

Date: Feb. 18th, 2022

Name: DeVonté Moorer

Dept. No.: 1132591

Housing Unit: D-20-035

Program: None AM None PM

(Please Print or Type - This form must be filed within 21 calendar days of Grievance Incident)*

Description of Problem: (Please make as brief as possible)

See Attached
Paper!Grievant
Signature:

DeVonté Moorer

Grievance Clerk:

Date:

Advisor Requested ☐ YES ☐ NO Who:Action requested by inmate: Directive #4914 be revised to adhere to "Crown Act" Law. Authors of misbehavior reports be re-trained to adhere to "Crown Act" Law. Measures taken to prevent ^{racist} discrimination against hair.

The Grievance has been formally resolved as follows:

This Informal Resolution is accepted:
(To be completed only if resolved prior to hearing)Grievant
Signature:

Date:

If unresolved, you are entitled to a hearing by the Inmate Grievance Resolution Committee (IGRC).

* An exception to the time limit may be requested under Directive #4040, section 701.6(g).

WDE- 0107-22

Inmate Grievance
ComplaintDescription of Problem:
(Attached Paper)Feb. 18th, 2022

On Feb. 17th, 2022 at approx. 8:10 am, while walk. to the mess hall, I saw Sgt. McCann who had been intensely staring at me and posturing ~~at~~ me as I inevitably got closer to get to the mess hall. At which point I heard Sgt. McCann scold "fucking nigger", and then lean over to wisper into the ear of one of his Constituants, however those words I could not hear.

Then approx. 20 min. later while exiting the mess hall, I noticed that Sgt. McCann was no longer in the mega corridor.

On Feb. 18th, 2022 I received a third misbehavior report about my beard, however this time the auth. of this report goes by the name Sgt. Kokotajlo, who described the incident as if he had been involved from the time I had received my first misbehavior repor. Which he was not. Sgt Kokotajlo has never interacted with me at any time, has never asked for my I.D. and has never written me a misbehavior report yet he automatically knew my name, DIN# and cell location and the history of the ~~incidents~~ previous incidents between Sgt. McCann and myself. This is evidence that

pg 1 of 2

WDE-0107-22

Sgt. McCann surreptitiously authored the misbehavior report ~~and~~ ^{vicariously} through his constituent Sgt. Kokotajlo.

This is because my two recent grievances were about Sgt. McCann and his discriminatory, ~~harass~~ harassment/oppressive techniques affected upon myself. This is retaliation and will continue to occur unless Directive #4914 is revised to adhere to the "Crown Act" signed into Law in New York State in July, 2019 effectively prohibiting the discrimination against African American hair styles and grooming standards.

Also, when I wrote and submitted my last recent grievance about this same issue I was not given the the opportunity to appear at the grievance hearing to present a reasonable defense effectively denying me my right to due process and subsequently suppressing my argument. And thereafter attempting to effect my right to gain access to the courts in the near future with these same issues. Sgt. McCann is the grievance Sgt.

I certify that these statements are true and exact.
~~Completed~~

DeVonté M.


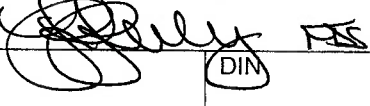
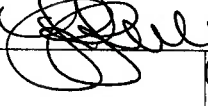
DeVonté Moorer

DIN# 1182591

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

TO: MOORER, D (11B2591) D 20-03
FROM: IGRC
DATE: FEBRUARY 22, 2022
RE: CODE 49 – WDE-0107-22

YOUR GRIEVANCE WAS RECEIVED AND SENT DIRECTLY TO THE SUPERINTENDENT.
THEREFORE, YOU WILL NOT RECEIVE AN IGRC HEARING ON THESE MATTERS.
THE SUPERINTENDENT HAS 25 DAYS FROM THE LOG DATE TO RESPOND.

 <p>NEW YORK STATE Corrections and Community Supervision</p> <p>INMATE GRIEVANCE PROGRAM</p> <p>SUPERINTENDENT</p>	Grievance No. WDE-0107-22		Date Filed 2/18/22
	Facility Wende		Policy Designation Institutional
	Title of Grievance Harassment		Class Code #49
	Superintendent's Signature 		Date 3/4/22
Grievant Moorer, D.	 <div style="border: 1px solid black; border-radius: 50%; padding: 2px; display: inline-block;">DIN</div>		Housing Unit D-20-03
	11B2591		

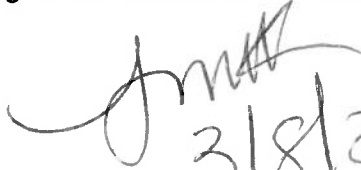
This grievance has been investigated by a Security Supervisor and includes an interview with the grievant.

During the interview, the grievant stated that they had nothing further to add to their written grievance and they had no witnesses they could identify.

The investigating supervisor interviewed the staff members mentioned in the grievance and they denied all allegations made by the incarcerated individual. The staff members provided a written memorandum denying the grievant's allegations.

The grievant has been issued three misbehavior reports for failing to follow Departmental Directive and has continued his defiance to the rules and continues to refuse to come into grooming compliance.

The evidence provided to this Reviewer does not substantiate a grievance of harassment by staff.


3/8/22

APPEAL STATEMENT

If you wish to refer the above decision of the Superintendent, please sign below and return this copy to your Inmate Grievance Clerk. You have seven (7) calendar days from receipt of this notice to file your appeal. Please state why you are appealing this decision to C.O.R.C.

Grievant's Signature

Date

Grievance Clerk's Signature

Date



Corrections and Community Supervision

KATHY HOCHUL
Governor

ANTHONY J. ANNUCCI
Acting Commissioner

MEMORANDUM


From: Rachael Seguin, Acting Director, Incarcerated Grievance Program
SUBJ: Receipt of Appeal
Date: 3/30/2022

D MOORER 11B2591
Wende Correctional Facility
Your grievance WDE-0107-22 entitled
Called Racial Names By Sergeant
was rec'd by CORC on 3/14/2022

A disposition will be sent to you after the grievance is reviewed by CORC

MOORE, D (11B2591)

Eastern

 NEW YORK STATE Corrections and Community Supervision KATHY HOCHUL <small>Governor</small> ANTHONY J. ANNUCCI <small>Attorney General</small>	Grievance Number WDE-0107-22	Desig./Code I/49	Date Filed 02/18/22
	Associated Cases		Hearing Date 04/21/22
INCARCERATED GRIEVANCE PROGRAM CENTRAL OFFICE REVIEW COMMITTEE	Facility Wende Correctional Facility Title of Grievance Called Racial Names By Sergeant		

GRIEVANT'S REQUEST UNANIMOUSLY DENIED

Upon full hearing of the facts and circumstances in the instant case, the action requested herein is hereby denied. CORC upholds the determination of the Superintendent for the reasons stated.

CORC notes that Sergeant M... denies threatening, harassing, or using derogatory language towards the grievant, or writing misbehavior reports for other staff. Sergeant K... states that they approached the grievant during the meal run regarding their beard being out of compliance and denies that Sergeant M... provided assistance in the writing of the misbehavior report that was issued to the grievant on 2/17/22. It is noted that the grievant was subsequently issued a Tier II misbehavior report (MBR) for refusing a direct order and violating a hearing disposition, which was affirmed upon appeal by Superintendent B... on 3/7/22. CORC advises the grievant that in accordance with Directive #4914 beards may not exceed one inch unless they have an exemption or a court order. In addition, Directive #4914 makes no provision for allowing twists, dreadlocks or braids in beards. CORC notes for clarification that the Crown Act referenced by the grievant is applicable to hairstyles, not facial hair. CORC asserts that an employee's appropriate performance of their duties and enforcement of the rules and regulations should not be construed as harassment by the grievant.

CORC notes that the grievance program is not intended to support an adversary process and that no reprisals of any kind shall be taken against an incarcerated individual or employee for good faith utilization of this grievance procedure. An incarcerated individual may pursue a complaint that a reprisal occurred through the grievance mechanism.

With respect to the grievant's appeal, CORC has not been presented with any compelling reason to revise Directive #4914 at this time and finds insufficient evidence to substantiate discrimination, or malfeasance by staff. CORC advises the grievant to follow staff direction in order to avoid similar difficulties in the future.

MXV/

35
Restricted
Buy

INMATE GRIEVANCE COMPLAINT

Grievance No. WDE- 0111-22

Wende CORRECTIONAL FACILITY

Date: Feb. 23rd, 2022

Name: DeVonté Moorer Dept. No.: 1182591 Housing Unit: D-20-03s

Program: None AM None PM

(Please Print or Type - This form must be filed within 21 calendar days of Grievance Incident)*

Description of Problem: (Please make as brief as possible) On Feb. 1st, 2022 I was found guilty at a Disciplinary hearing and received 20 days loss of commissary, recreation and packages. I was released from those restrictions on Feb. 21st, 2022. On Feb. 23rd, 2022 I was forced to purchase only from the restricted buy sheet in respect to commissary. This is arbitrary and capricious as well as a violation of my State and federal due process rights to be free from cruel and unusual punishment and a violation of my right to due process. This is ongoing retaliation.

Grievant

Signature: DeVonté Moorer

Grievance Clerk: Date:

Advisor Requested ☐ YES ☐ NO Who:

Action requested by inmate: Strict measures are implemented to prevent any and all further retaliation and violations of my rights. Also that my commissary sheets be printed the day before my scheduled commissary buy day. Also that I be allowed to make an additional actual/unrestricted commissary. The Grievance has been formally resolved as follows: buy in the month of March.

This Informal Resolution is accepted:
(To be completed only if resolved prior to hearing)

Grievant

Signature: Date:

If unresolved, you are entitled to a hearing by the Inmate Grievance Resolution Committee (IGRC).

* An exception to the time limit may be requested under Directive #4040, section 701.6(g).



Corrections and Community Supervision

KATHY HOCHUL
Governor

ANTHONY J. ANNUCCI
Acting Commissioner

MEMORANDUM


From: Rachael Seguin, Director, Incarcerated Grievance Program
SUBJ: Receipt of Appeal
Date: 4/28/2022

D MOORER 11B2591
Wende Correctional Facility
Your grievance WDE-0111-22 entitled
Restricted Buy After Sanctions Completed
was rec'd by CORC on 4/1/2022

A disposition will be sent to you after the grievance is reviewed by CORC

Moore, D (11B2591)

Eastern

 NEW YORK STATE Corrections and Community Supervision KATHY HOCHUL GOV. HONORARY ANTHONY J. ANNUCCI ATTORNEY GENERAL	Grievance Number WDE-0111-22	Desig./Code I/35	Date Filed 02/24/22
	Associated Cases		Hearing Date 05/19/22
	Facility Wende Correctional Facility		
INCARCERATED GRIEVANCE PROGRAM CENTRAL OFFICE REVIEW COMMITTEE		Title of Grievance Restricted Buy After Sanctions Completed	

GRIEVANT'S REQUEST UNANIMOUSLY DENIED

Upon full hearing of the facts and circumstances in the instant case, the action requested herein is hereby denied.

CORC notes that the grievant was serving loss of commissary sanctions at the time that the buy sheets were printed and placed in the D block mailbag on 2/18/22. It is noted that the grievant received a restricted buy sheet and had the opportunity to address the error with commissary staff prior to the scheduled buy date of 2/23/22 but did not do so. CORC notes that the grievant is not entitled to a make-up buy and finds no malice by staff.

CORC notes that no reprisals of any kind shall be taken against an incarcerated individual or employee for good faith utilization of the grievance procedure. An incarcerated individual may pursue a complaint that a reprisal occurred through the grievance mechanism.

CORC has not been presented with any compelling reason to revise present commissary procedures and advises the grievant to address further similar concerns to commissary staff, at that time, for the most expeditious means of resolution.

MXV/

REQUEST FOR JUDICIAL INTERVENTION

Case 6:23-cv-06040-FPG-CDH Document 1 Filed 01/17/23 Page 61 of 63

UCS-840 (7/2012)

COURT, COUNTY OF _____

Index No: _____ Date Index Issued: ____/____/____

CAPTION: Enter the complete case caption. Do not use et al or et ano. If more space is required, attach a caption rider sheet.

Plaintiff(s)/Petitioner(s)

-against-

Defendant(s)/Respondent(s)

For Court Clerk Use Only:

IAS Entry Date

Judge Assigned

RJI Date

NATURE OF ACTION OR PROCEEDING:

Check ONE box only and specify where indicated.

MATRIMONIAL

☐ Contested

NOTE: For all Matrimonial actions where the parties have children under the age of 18, complete and attach the **MATRIMONIAL RJI Addendum**. For Uncontested Matrimonial actions, use RJI form UD-13.

TORTS

☐ Asbestos

☐ Breast Implant

☐ Environmental: _____ (specify)

☐ Medical, Dental, or Podiatric Malpractice

☐ Motor Vehicle

☐ Products Liability: _____ (specify)

☐ Other Negligence: _____ (specify)

☐ Other Professional Malpractice: _____ (specify)

☐ Other Tort: _____ (specify)

COMMERCIAL

☐ Business Entity (including corporations, partnerships, LLCs, etc.)

☐ Contract

☐ Insurance (where insurer is a party, except arbitration)

☐ UCC (including sales, negotiable instruments)

☐ Other Commercial: _____ (specify)

NOTE: For Commercial Division assignment requests [22 NYCRR § 202.70(d)], complete and attach the **COMMERCIAL DIV RJI Addendum**.

REAL PROPERTY: How many properties does the application include?

☐ Condemnation

☐ Mortgage Foreclosure (specify): ☐ Residential ☐ Commercial
Property Address: _____

NOTE: For Mortgage Foreclosure actions involving a one- to four-family, owner-occupied, residential property, or an owner-occupied condominium, complete and attach the **FORECLOSURE RJI Addendum**.

☐ Tax Certiorari - Section: _____ Block: _____ Lot: _____

☐ Tax Foreclosure

☐ Other Real Property: _____ (specify)

OTHER MATTERS

☐ Certificate of Incorporation/Dissolution [see NOTE under Commercial]

☐ Emergency Medical Treatment

☐ Habeas Corpus

☐ Local Court Appeal

☐ Mechanic's Lien

☐ Name Change

☐ Pistol Permit Revocation Hearing

☐ Sale or Finance of Religious/Not-for-Profit Property

☐ Other: _____ (specify)

SPECIAL PROCEEDINGS

☐ CPLR Article 75 (Arbitration) [see NOTE under Commercial]

☐ CPLR Article 78 (Body or Officer)

☐ Election Law

☐ MHL Article 9.60 (Kendra's Law)

☐ MHL Article 10 (Sex Offender Confinement-Initial)

☐ MHL Article 10 (Sex Offender Confinement-Review)

☐ MHL Article 81 (Guardianship)

☐ Other Mental Hygiene: _____ (specify)

☐ Other Special Proceeding: _____

STATUS OF ACTION OR PROCEEDING:

Answer YES or NO for EVERY question AND enter additional information where indicated.

YES NO

Has a summons and complaint or summons w/notice been filed?

☐ ☐ If yes, date filed: ____/____/____

Has a summons and complaint or summons w/notice been served?

☐ ☐ If yes, date served: ____/____/____

Is this action/proceeding being filed post-judgment?

☐ ☐ If yes, judgment date: ____/____/____

NATURE OF JUDICIAL INTERVENTION:

Check ONE box only AND enter additional information where indicated.

- ☐ Infant's Compromise
☐ Note of Issue and/or Certificate of Readiness
☐ Notice of Medical, Dental, or Podiatric Malpractice Date Issue Joined: ____/____/____
☐ Notice of Motion Relief Sought: _____ Return Date: ____/____/____
☐ Notice of Petition Relief Sought: _____ Return Date: ____/____/____
☐ Order to Show Cause Relief Sought: _____ Return Date: ____/____/____
☐ Other Ex Parte Application Relief Sought: _____
☐ Poor Person Application
☐ Request for Preliminary Conference
☐ Residential Mortgage Foreclosure Settlement Conference
☐ Writ of Habeas Corpus
☐ Other (specify): _____

RELATED CASES:

List any related actions. For Matrimonial actions, include any related criminal and/or Family Court cases.

If additional space is required, complete and attach the **RJI Addendum**. If none, leave blank.

Case Title	Index/Case No.	Court	Judge (if assigned)	Relationship to Instant Case

PARTIES:

For parties without an attorney, check "Un-Rep" box AND enter party address, phone number and e-mail address in space provided.

If additional space is required, complete and attach the **RJI Addendum**.

Un-Rep	Parties: List parties in caption order and indicate party role(s) (e.g. defendant; 3rd-party plaintiff).	Attorneys and/or Unrepresented Litigants: Provide attorney name, firm name, business address, phone number and e-mail address of all attorneys that have appeared in the case. For unrepresented litigants, provide address, phone number and e-mail address.	Issue Joined (Y/N):	Insurance Carrier(s):
<input type="checkbox"/>	Name: Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	

I AFFIRM UNDER THE PENALTY OF PERJURY THAT, TO MY KNOWLEDGE, OTHER THAN AS NOTED ABOVE, THERE ARE AND HAVE BEEN NO RELATED ACTIONS OR PROCEEDINGS, NOR HAS A REQUEST FOR JUDICIAL INTERVENTION PREVIOUSLY BEEN FILED IN THIS ACTION OR PROCEEDING.

Dated: ____/____/____

SIGNATURE

ATTORNEY REGISTRATION NUMBER

PRINT OR TYPE NAME

AFFIDAVIT OF SERVICE

State of New York)

) ss.:

County of Ulster)

I, DeVonte Moorner, swear under penalty of perjury that:

I am the Petitioner, in the enclosed action.

I have on this ____ day of _____ 2022, placed and submitted within the institutional mailbox located at Eastern Correctional facility P.O. Box 338, Napanoch, New York 12458, the following,

1. Full and Complete Title 42 Section 1983 Suit with Civil Coversheet;
- X. Request for Judicial Intervention, request to proceed In Forma Pauperis,
- X. and exhibits

To be duly mailed and delivered via United States Postal Service upon the following party [s]:

1. United States District Court, U.S. Courthouse, 100 State St., Rochester, NY 14614-1387
2. _____
3. _____

Sworn to before me this

29 day of November 2022

[Signature]
Notary Public

KIM A FRANCOIS
NOTARY PUBLIC-STATE OF NEW YORK
No. 01FR6313861
Qualified in Sullivan County
My Commission Expires 10-27-2022

X. [Signature]
Mr. DeVonte Moorner
Eastern New York Correctional Facility
P.O. Box 338
Napanoch, New York 12458-0338

DIXI # 11B2591